IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1361 of 2006

M/s.International Luggage Mfg. Co. .. Petitioner

versus

Smt.Vandana Robinson Nikalje & ors .. Respondents

...

Mr.A.D. Shetty for the petitioner.

Mr.I.A. Engineer for the respondent no.1.

CORAM : D.G. KARNIK, J

DATED : 5th June 2006.

P.C.:

1. By this petition, the petitioner challenges the order passed by the labour court ordering reinstatement of the respondent.

2. Learned counsel for the petitioner submits that the industry has been closed down with effect from 30th December 2002 and therefore, the labour court could not have passed the order of reinstatement. Services of the respondent were terminated on 5th April 2000. Reference under the Industrial Disputes Act was

made soon thereafter and was numbered Reference No. 279/01. The alleged closure was made during the pendency of the reference. A reference regarding the alleged illegal termination of an employee does not abate merely because the industry is closed down subsequently during the pendency of the reference (See UP Electricity Supply Co.Ltd. Vs. The Workman and others reported in 1974 (24) FLR 249.

3. Learned counsel for the petitioner submits that the petitioner had not terminated the services of the respondent but the respondent had abandoned the employment and therefore the order of reinstatement could not have been passed. The labour court has recorded a finding of fact that the services of the respondent were terminated by the petitioner. The finding is based on evidence and is not shown to be perverse. The finding is not open to challenge in writ jurisdiction. The decision of the Supreme Court in Range Forest Officer Vs. S.T. Hadimani reported in 2001(1) CLR 922 and cited by the counsel has no application.

4. Petition is rejected.

(D.G. KARNIK, J)